Guidance on the Public Services Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No2) Regulations 2023

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1. Introduction

1.1. The purpose of this guidance

1.1.1. The draft Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 ('the regulations') dealing with the taxation of public service pension remedy were published for consultation on 22 May 2023.

1.1.2. These regulations follow on from the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 ('S.I. 2023/113') which took effect from 6 April 2023 and deal with the tax treatment of the remedy set out in the Public Service Pensions and Judicial Offices Act 2022 ('PSPJOA').

1.1.3. Chapter 2 of the consultation guidance for S.I. 2023/113 provides an overview of the remedy. The remedy makes retrospective changes to the pensionable service of members of public service pension schemes over the 'remedy period' from 1 April 2015 to 31 March 2022, with slight variations of the start date for certain schemes. These retrospective changes impact the tax treatment of that pensionable service over the 'remedy period'. As with S.I. 2023/113, these tax regulations, made under the power in section 11 of Finance Act 2022, aim to put members in the tax position they would have been in had the discrimination not happened.

1.1.4. In section 1.3 of the S.I. 2023/113 consultation guidance HMRC promised to provide more details on how to claim a repayment or report and pay extra tax due because of changes to a member's annual allowance (AA) or lifetime allowance (LTA) as a result of the public service pensions remedy. These regulations make specific provision so that individuals and scheme administrators can claim a repayment or report and pay extra with any AA and LTA charges and unauthorised payments charge and surcharge that arise as a result of the public service pension schemes remedy in the 2019-20, 2020-21, 2021-22 and 2022-23 tax years. These tax years will remain 'open' for both the member and the scheme administrator until the tax position in relation to those charges is resolved.

1.1.5. HMRC also noted in the S.I. 2023/113 consultation guidance that certain subjects were not covered in the regulations and guidance would be published on regulations dealing with those issues.

- voluntary contributions – regulations 3, 4 and 12 deal with the tax consequences that arise in relation to voluntary contributions in connection with the remedy
- ill-health retirement – no further tax changes are needed
- pension sharing on divorce – regulations 5 and 11 deal with the tax consequences for a member with 'remediable service' and that member's former partner who share a public service pension on divorce
- opt-out – no further tax changes are needed if the member only opted out and made no other provision
- partnership pension account – regulation 6 deals with the tax consequences of rights under a partnership pension account being replaced by pensionable service under a legacy pension scheme for those who have opted back in
- transfers –no further tax changes are needed for transfers accepted into public service pension schemes during the 'remedy period'.

1.1.6. Terms specific to the public service pension reform remedy that are shown in quotation marks are defined in the glossary at the ned of this guidance.

1.2. Target audience

1.2.1. The parts of this guidance on voluntary contributions, pension-sharing on divorce, benefits and consequential amendments are aimed at public service pension scheme administrators and those with technical knowledge of pension schemes and their tax treatment, such as tax agents, accountants, and financial advisers.

1.2.2. The part on administration is relevant to pension scheme members who were or are as a result of the remedy subject to AA charges, LTA charges, unauthorised payments charges or unauthorised payments surcharges in the 2019-20, 2020-21, 2021-22 and 2022-23 tax years.

1.2.3. However, if you are a member of a public service pension scheme, you do not need to do anything for now. You will receive further information from your pension scheme after the remedy has been implemented. You should not contact HMRC as you will be asked to wait for more information from your pension scheme.

2. Voluntary Contributions (MVCs)

2.1.1. Members may have made voluntary contributions (MVCs) during the 'remedy period' to:

- purchase added pension (including benefits accruing at a higher rate than the standard accrual rate under the scheme), or
- for a pension to be paid earlier without actuarial reduction (known as effective pension age (EPA) or early retirement reduction buy out (ERRBO)).

2.1.2. MVCs paid to a '2015 scheme' are not affected by a 'legacy scheme election'; the rights from MVCs remain within the '2015 scheme'. Section 3.2 of this guidance outlines what will happen in respect of MVCs paid to a 'Chapter 2 scheme'.

2.1.3. MVCs paid to a 'Chapter1 new scheme' are not automatically rolled back to the 'Chapter 1 legacy scheme'. Sections 3.3 to 3.9 below outline what will happen in respect of MVCs paid to a 'Chapter 1 scheme'.

2.1.4. Nothing special is needed in respect of MVCs paid to a 'Chapter 3 scheme' as the 'remediable service' for both 'protected' and 'unprotected' members is pensioned under the same schemes.

2.2. MVCs paid to a 'Chapter 2 scheme'

2.2.1. In accordance with section 42(7)(a) 'PSPJOA' voluntary contributions paid by a member to a '2015 scheme' are not affected by a 'legacy scheme election'.

2.2.2. When a 'legacy scheme election' is made the pension input amounts for a '2015 scheme' will need to be recalculated based on:

- rights relating to MVCs paid to the scheme
- rights given as a result of a transfer into the scheme

2.2.3. Judicial scheme regulations will provide that a '2015 scheme' will continue to provide benefits in respect of contributions paid to that scheme to purchase added pension.

2.2.4. Where a 'legacy scheme election' is made by or on behalf of a judge who made EPA contributions, section 53 'PSPJOA' provides that the scheme manager will pay compensation equivalent to those contributions less tax relief. Regulation 44 SI 2023/113 provides that the compensation will not be subject to income tax or capital gains tax.

2.3. MVCs paid to a Chapter 1 scheme

2.3.1. Voluntary contributions paid by a member to a ‘Chapter 1 new scheme’ are not automatically rolled back to the ‘Chapter 1 legacy scheme’. This is because section 2(5)(a) ‘PSPJOA’ provides that the ‘rollback’ of pensionable service from the ‘Chapter 1 new scheme’ to the ‘Chapter 1 legacy scheme’ does not affect voluntary contributions arrangements.

2.3.2. Section 20 ‘PSPJOA’ provides for scheme regulations to make provision in respect of member voluntary contributions (MVCs). Section 22(6) ‘PSPJOA’ provides that scheme regulations made under section 20 may modify how ‘PSPJOA’ operates.

2.4. What happens to MVCs paid to Chapter 1 schemes

2.4.1. In certain circumstances, for example where ‘Chapter 1 new scheme’ benefits are already in payment, scheme regulations may modify how ‘PSPJOA’ applies so that ‘section 2(1)’ applies to MVC arrangements and MVC rights fall within the scope of a ‘new scheme benefits election’ under section 6 ‘PSPJOA’. Where scheme regulations make these modifications, MVC rights are treated in the same way as pension rights from basic pensionable service. This could affect a member’s pension input amount and liability to the AA charge, as well as their LTA position. The consultation guidance for S.I. 2023/113 [https://www.gov.uk/government/publications/the-public-services-pension-schemes-rectification-of-unlawful-discrimination-tax-regulations-2023/guidance-on-the-public-services-pension-schemes-rectification-of-unlawful-discrimination-tax-regulations-2023] sets out the treatment for AA and LTA purposes.

2.4.2. For most members, scheme regulations made under section 20 ‘PSPJOA’ will provide that scheme rights under the ‘Chapter 1 new scheme’ that relate to MVCs are extinguished, and:

- The scheme manager will pay compensation equivalent to the MVCs paid to the ‘Chapter 1 new scheme’ less an amount in respect of tax relief given on those MVCs, or
- Pension rights are given under the ‘Chapter 1 legacy scheme’ of an equivalent value or rights that would have been secured if the MVCs had been paid to that scheme.

2.4.3. Scheme regulations may give one or more option. The member may be given a choice, or the scheme regulations may impose an option.

It is up to scheme managers to decide what options to offer their members.

2.4.4. Pension benefits payable as a result of making MVCs are not benefits determined by reference to the member's 'remediable service'. This means that an election for 'new scheme benefits' under either section 6 or section 10 'PSPJOA' will not automatically convert benefits from MVCs into 'new scheme benefits'.

2.4.5. If a member makes a 'new scheme benefits election', scheme regulations will need to provide that the pension rights from MVCs paid during the 'remedy period' (to either the 'Chapter 1 new scheme' or 'Chapter 1 legacy scheme') will be varied to become 'new scheme benefits' rights. As this depends on scheme regulations, the date the MVC rights are varied will not automatically follow on from the date the 'new scheme benefits election' takes effect.

2.4.6. Scheme administrators will need to apply regulation 3 and, where the member makes a 'new scheme benefits election', regulation 4. Section 3.8 provides guidance on what scheme administrators will need to do when replacement MVC rights are provided under a 'Chapter 1 legacy scheme'. Section 3.9 provides guidance on what scheme administrators will need to do when a 'new scheme benefits election' is made.

2.5. What happens when section 2 'PSPJOA' comes into force

2.5.1. When 'section 2' comes into force, scheme administrators of Chapter 1 new schemes will need to recalculate the pension input amounts during the 'remedy period' based on:

- rights relating to MVCs paid to the scheme
- rights given as a result of a transfer into the scheme

2.6. What happens when MVC rights under the 'Chapter 1 new scheme' are extinguished

Regulation 3(2)

2.6.1. PTM043301 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm053301] explains how the pension input amount for a defined benefits arrangement is calculated.

2.6.2. In the pension input period (PIP) in which the MVC rights under the 'Chapter 1 new scheme' are extinguished, the closing value will be reduced due to the MVC rights being extinguished. Regulation 3(2) provides that for the purpose of calculating the pension input amount in that PIP, scheme administrators must ignore the effect of the MVC rights being extinguished. Both the opening and closing values for

‘Chapter 1 new scheme’ arrangement will be calculated including the pension rights from MVCs.

2.6.3. In the following PIPs scheme administrators will calculate the pension input amounts in the normal way, that is based on the rights the member actually holds under the arrangement at the relevant times.

2.6.4. Extinguishing MVCs as a result of the remedy does not change the pension input amounts for PIPs for previous years.

Regulation 12

2.6.5. The annual rate of a scheme pension may be reduced only in limited circumstances (see PTM062340 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm062340]). If the rate of scheme pension is reduced outside of these permitted circumstances every ongoing payment of the scheme pension will be unauthorised.

2.6.6. Regulation 12 provides for the reduction to the rate of the scheme pension due to MVC rights being extinguished to be a permitted reduction.

2.7. Compensation for ‘Chapter 1 new scheme’ MVCs

2.7.1. Where a scheme manager provides compensation in respect of the extinguished ‘Chapter 1 new scheme’ MVC rights, in accordance with regulation 44 SI 2023/113 the compensation will not be subject to income tax or capital gains tax.

2.7.2. The amount of compensation payable is a decision to be taken by the scheme manager.

2.7.3. If a member chooses to use all or part of the compensation to make MVCs to either the ‘Chapter 1 new scheme’ or ‘Chapter 1 legacy scheme’, normal tax treatment will apply.

2.7.4. Tax relief may be due as set out at PTM044100 of the Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm044100], and any extra pension rights accrued as a result of those MVCs will count towards the member’s pension input amount in the tax year that the MVCs are paid.

2.8. Replacement MVCs provided under ‘Chapter 1 legacy scheme’

Regulation 3(3)

2.8.1. If ‘Chapter 1 new schemes’ provide the option of replacement MVCs under their associated ‘Chapter 1 legacy scheme’ and members make that choice, the ‘Chapter 1 legacy scheme’ administrator will create the replacement MVC rights as one tranche. They are not retrospectively created year by year over the ‘remedy period’. This means that in the PIP that the replacement MVC rights are created under the 'Chapter 1 legacy scheme', the closing value would be increased due to the member's pension rights being increased by the replacement MVC rights.

2.8.2. The tax treatment depends on if the MVCs were paid to purchase extra pension under the 'Chapter 1 new scheme' or to secure earlier payment of pension. Where the MVCs were used to purchase extra pension, those extra benefits would have been tested against the member's AA in the year the MVCs were paid to the 'Chapter 1 new scheme'.

2.8.3. Regulation 3(3) provides that for the PIP in which the replacement additional pension rights are created under the 'Chapter 1 legacy scheme' those rights are to be ignored for the purposes of calculating the pension input amount. This ensures that the additional pension benefits are not tested twice against the AA.

2.8.4. PTM053910 in the Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm053910] explains the instance where the pension input is nil because a member is a deferred member under the arrangement (known as the deferred member carve-out).

2.8.5. If the member would otherwise meet the conditions of the deferred member carve out the creation of the replacement additional pension rights will be ignored for the purposes of calculating the pension input amount. The member should continue to have a pension input amount of nil under the 'Chapter 1 legacy scheme' arrangement in the PIP the replacement additional pension rights were created and in future PIPs.

2.8.6. MVCs used to secure the earlier payment of benefits (EPA/ERRBO) under the 'Chapter 1 new scheme' would not have increased the amount of pension payable at the scheme's normal pension age. They would not have increased the member's pension input amount under the 'Chapter 1 new scheme' arrangement and so would not have been tested against the AA when they were paid.

2.8.7. This means that scheme administrators will need to include the replacement pension rights provided in respect of MVCs originally used to secure earlier payment of benefits in the calculations of the pension input amount for the 'Chapter 1 legacy scheme' arrangement in the PIP that they are created. For future PIPs, the replacement MVC rights may be ignored when calculating the pension input amount if the member would otherwise meet the conditions of the deferred member carve out.

2.9. Variation of MVC rights to ‘new scheme benefits’

Regulation 4(2)

2.9.1. If a member makes a ‘new scheme benefits election’, scheme regulations will need to provide that the pension rights from MVCs paid during the ‘remedy period’ (to either the ‘Chapter 1 new scheme’ or ‘Chapter 1 legacy scheme’) will be varied to become ‘new scheme benefits’ rights.

2.9.2. When calculating the pension input amount, for the ‘Chapter 1 legacy scheme’ in the PIP that the variation occurs, the effect of the variation will be ignored if it would give a higher pension input amount.

2.9.3. In the year the member’s MVC rights are varied the opening value will be calculated using legacy accrual.

2.9.4. Where the difference between the opening value and the closing value (based on new scheme MVC benefit accrual) is the same or less than the difference between the opening value and the closing value (based on legacy MVC benefit accrual) the closing value used to calculate the pension input amount will be based on ‘new scheme benefit’ accrual.

2.9.5. Where the difference between the opening value and the closing value (based on new scheme MVC benefit accrual) is more than the difference between the opening value and the closing value (based on legacy MVC benefit accrual) the closing value used to calculate the pension input amount will be based on legacy benefit accrual.

Regulations 4(3) and 24 with regulation 13 SI 2023/113

2.9.6. PTM053910 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm053910] explains the instance where the pension input is nil because a member is a deferred member under the arrangement (known as the deferred member carve-out).

2.9.7. Regulation 4(3) provides that if the member would otherwise meet the conditions of the deferred member carve out the variation of the MVC rights will be ignored for the purposes of calculating the pension input amount. The member should continue to have a pension input amount of nil under the ‘Chapter 1 legacy scheme’ arrangement in the PIP the replacement additional pension rights were created and in future PIPs.

2.9.8. Regulation 24 amends regulation 13 of SI 2023/113. Paragraph 4.6.16 of the consultation guidance for S.I. 2023/113 [https://www.gov.uk/government/publications/the-public-services-pension-schemes-rectification-of-unlawful-discrimination-tax-regulations-2023/guidance-on-the-public-services-pension-schemes-rectification-of-unlawful-discrimination-tax-regulations-2023] explains how regulation 13 of SI 2023/113 operates. The amendment made by regulation 24 means that if a member with MVC rights partially retires and is no longer an active member, the deferred member carve out will apply to them in the same ways as a member without MVC rights making a 'new scheme benefits election'.

Regulation 12

2.9.9. The annual rate of a scheme pension may be reduced only in limited circumstances. If the rate of scheme pension is reduced outside of these permitted circumstances every ongoing payment of the scheme pension will be unauthorised. Regulation 12 provides for the reduction to the rate of the scheme pension due to MVC rights being varied to be a permitted reduction.

3. Pension sharing on divorce (or dissolution of civil partnership)

3.1.1. PTM029000 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm029000] provides guidance on pension sharing on divorce.

3.1.2. Sections 19 and 57 'PSPJOA' (for 'Chapter 1' and 'Chapter 2 schemes' respectively) provide for schemes to make regulations in respect of pension debit and pension credit members.

3.2. Pension debit members

3.2.1. Where a pension sharing order includes pension rights in respect of 'remediable service', the amount of the pension debit will reflect the member's choice of benefits, either legacy or 'new scheme benefits'. Scheme administrators of 'Chapter 1 new schemes' will need to adjust pension debits already applied as a result of the 'rollback' and scheme administrators of 'Chapter 1 legacy schemes' will need to adjust pension debits if a 'new scheme benefits election' is made. This adjustment may result in the pension debit member's entitlement either increasing or decreasing.

3.2.2. Regulation 5 provides that if a pension debit is adjusted that adjustment is ignored for the purposes of calculating the pension input amount in the PIP in which the adjustment takes place.

3.3. Pension credit members

3.3.1. Where a pension sharing order includes pension rights in respect of 'remediable service', the pension credit member will receive pension rights based on the higher of cash equivalent transfer value (CETV) for:

- legacy accrual or
- 'new scheme benefit' accrual.

3.3.2. Where that pension sharing order for a ‘Chapter 1 scheme’ is made before 1 October 2023 and for a ‘Chapter 2 scheme’ is made before the judges’ ‘options exercise’, the amount of the pension credit may change. Where the amount of the pension credit changes this in most cases will result in an increase in pension entitlement. However, in rarer cases where the connected pension debit is a ‘taper protected member’, the pension credit member’s entitlement may reduce.

3.3.3. The change in the amount of the pension credit cannot be retrospective. Regulation 5 provides that if a pension credit is adjusted that adjustment is ignored for the purposes of calculating the pension input amount in the PIP in which the adjustment takes place.

3.3.4. For those rare cases (in respect of ‘taper-protected members’) where the pension credit decreases, and where this occurs after the pension credit was put into payment, the original benefit entitlement was correct and is not retrospectively changed. This means that the original BCEs were correct and the authorised status of the benefits, that were paid before the pension credit is adjusted, remains. Where a scheme reduces the scheme pension in payment, regulation 11 provides that the reduction to the annual rate of scheme pension is a permitted reduction.

4. Partnership pension account (PPA)

4.1.1. Under section 5 ‘PSPJOA’ an individual who had opted out of pensionable service under a ‘Chapter 1 scheme’ can elect for their opted out ‘remediable service’ to be pension under a ‘Chapter 1 legacy scheme’. Scheme regulations will set the conditions for this.

4.1.2. If an individual had opted to be a member of the partnership pension account (PPA) instead of a ‘Chapter 1 scheme’, a condition for making an election under section 5 ‘PSPJOA’ will be for any uncrystallised rights under the PPA accrued in respect of the ‘remedy period’ to be transferred to the ‘Chapter 1 legacy scheme’. If all or part of the individual’s PPA rights in respect of the ‘remedy period’ have been crystallised, the rights granted under the ‘Chapter 1 legacy scheme’ will be adjusted to reflect the fact that not all PPA rights accrued in respect of the ‘remedy period’ have been transferred.

4.1.3. The transfer from the PPA to the ‘Chapter 1 legacy scheme’ is a recognised transfer.

4.1.4. The transfer does not change the pension input amounts (calculated as set out at PTM053200 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm053200]) that arose in respect of the PPA during the 'remedy period'.

4.1.5. Following the election under section 5 'PSPJOA' and transfer from the PPA the rights given under the 'Chapter 1 legacy scheme' will be extinguished. The individual is treated as always having accrued pensionable service under the 'Chapter 1 legacy scheme' during the 'remedy period'. The individual's pension input amounts under the 'Chapter 1 legacy scheme' for the 'remedy period' will need to be recalculated accordingly.

Regulation 6

4.1.6. In effect the individual will have had at least part of their benefit entitlement double counted against the AA. To counter this regulation 6 modifies the calculation of the pension input amount under the 'Chapter 1 legacy scheme' arrangement for:

- each PIP occurring during the 'remedy period', and
- the PIP in which the PPA rights are transferred to the 'Chapter 1 legacy scheme'.

4.1.7. Where before the transfer, none of the PPA rights have been crystallised, then for each of the PIPs occurring during the 'remedy period' the 'Chapter 1 legacy scheme' pension input amount is reduced by the PPA pension input amount. For example, if for 2020-21 the pension input amount under the PPA is £5,000 and disregarding the effect of regulation 6 the 2020-21 pension input amount under the 'Chapter 1 legacy scheme' is £35,000. The adjusted 'Chapter 1 legacy scheme' pension input amount is £30,000 (£35,000 – £5,000).

4.1.8. Where part or all of the PPA rights have crystallised before the transfer, the amount of the PPA pension input amount that is deducted from the 'Chapter 1 legacy scheme' pension input amount is based on the percentage of PPA rights that are uncrystallised. For example, the PPA pension input amount for 2020-21 is £5,000. However, before the transfer takes place 40% of the PPA rights are crystallised leaving 60% uncrystallised. The amount by which the 'Chapter 1 legacy scheme' pension input amount should be reduced is £3,000 (60% of £5,000).

4.1.9. For the PIP in which the transfer from the PPA takes place, in calculating the 'Chapter 1 legacy scheme' pension input the transfer from the PPA is effectively ignored. The pension input amount will be based on the increase of the 'Chapter 1 legacy scheme' benefits only.

4.1.10. Where a judge who makes a ‘legacy scheme election’ was accruing PPA benefits during the ‘remedy period’, in accordance with section 41 ‘PSPJOA’ rights accrued under the PPA in respect must be transferred to the relevant ‘Chapter 2 legacy scheme’.

4.1.11. Regulation 6 does not apply in respect of ‘Chapter 2 schemes’ as the PPA rights will be transferred to the unregistered ‘Chapter 2 legacy scheme’; the AA rules do not apply to such schemes.

5. Benefits

5.1. Introduction

5.1.1. Part 3 of the regulations sets out the correct tax treatment of certain additional payments made by public service schemes as a result of the remedy, in order to provide for the correct tax treatment.

5.1.2. The guidance [https://www.gov.uk/government/publications/the-public-services-pension-schemes-rectification-of-unlawful-discrimination-tax-regulations-2023/guidance-on-the-public-services-pension-schemes-rectification-of-unlawful-discrimination-tax-regulations-2023#benefits] for S.I. 2023/113 sets out for pension scheme administrators what will happen if a member with ‘remediable service’ has taken benefits from a ‘Chapter 1’, ‘Chapter 2’ or ‘Chapter 3 scheme’ or they have died before the remedy comes into force.

5.1.3. An ‘immediate choice’, an option made by a judge under the ‘options exercise’ or the application of a ‘final salary underpin’ may increase or reduce the amount of benefits that become payable.

5.1.4. PTM060000 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm060000] sets out rules relating to benefits and PTM070000 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm070000] sets out rules for death benefits. Regulations 7 to 10 and 13 set out further modifications of the rules relating to benefits arising from these changes.

5.2. Small commutation payment

5.2.1. PTM063700 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm063700] sets out the conditions for paying a small pot lump sum.

Already paid

Regulation 7

5.2.2. Where the member was paid a small pot lump sum, regulation 7 will act to disregard the condition that the payment of the lump sum must have extinguished the member's rights under the scheme if that condition would not be met following a member's 'immediate choice' or 'options exercise' or the application of a 'final salary underpin'.

Top-up paid to member

5.2.3. The existing legislation at regulation 11 or 12 SI 2009/1171 will act to authorise and provide the correct tax treatment of any top up paid to the member.

Top-up paid after member's death

Regulation 8

5.2.4. Payment of a small pot lump sum is authorised only if it is paid to the member. Where the member has died there may be a top-up to a small pot lump sum due as a result of an 'immediate choice', 'options exercise' or application of the 'final salary underpin' which should have been paid during the member's lifetime. As it is not payable because of the death of a member, it does not fall within the lump sum death benefit rule.

5.2.5. Where a small pot lump sum has been paid previously, regulation 8 authorises and taxes the top-up in the same way as a trivial commutation lump sum if it has become due as a result of an 'immediate choice', 'options exercise' or application of the 'final salary underpin' and it would have been a small pot lump sum if it had been paid to the member while they were alive.

5.3. Trivial commutation lump sum death benefit

5.3.1. PTM073700 in the HMRC Pensions Tax Manual [https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm073700] sets out the conditions for paying a trivial commutation lump sum death benefit.

Regulation 9

5.3.2. For a payment to a dependant to be a trivial commutation lump sum death benefit, it must extinguish the dependant's rights under the pension scheme to pension death benefits and lump sum death benefits in relation to the deceased member.

5.3.3. Where a trivial commutation lump sum death benefit has been paid and as a result of an 'immediate choice', the 'options exercise' or the application of the 'final salary underpin', a further lump sum would be payable but the condition that all rights must be extinguished is not met, regulation 9 will act to disregard that condition.

5.4. Dependant's scheme pension

Regulation 10

5.4.1. Legislation already provides for arrears of dependant's scheme pension to be paid to a dependant as an authorised payment.

5.4.2. Regulation 10 acts to authorise the payment of top-up dependant's scheme pension arising from an 'immediate choice', 'options exercise' or application of a 'final salary underpin' that would have been paid to the dependant but they have died or are now too old to qualify as a dependant.

5.4.3. Where the top-up dependant's scheme pension is paid to an individual who used to be a child dependant, regulation 10 provides for the payment to be treated as accruing in the tax year it should have been paid. Where the top-up is paid to the personal representatives of the dependant who has died, regulation 10 provides for it treated as accruing in the tax year it is paid.

5.5. Reduction of local government scheme pension

Regulation 13

5.5.1. Apart from a few legislative exceptions, a pension is not a scheme pension if the rate at which it is payable is reduced over a 12-month period.

5.5.2. Where a scheme pension is payable under a local government pension scheme and provisions in regulations made under section 78(1) 'PSPJOA' cause the rate of that pension to be reduced, regulation 13 provides for the pension to be a scheme pension if it would otherwise meet the conditions despite the reduction.

5.6. Lifetime allowance excess lump sums

5.6.1. Where a member with 'remediable service' was paid a lifetime allowance excess lump sum the tax treatment of that lump sum may change as a result of a 'Chapter 1' member's 'immediate choice' or a judge's 'options exercise'. The tax treatment may also depend on the type of scheme that made the payment. Regulations 14 to 16 deal with the tax treatment of lump sums already paid and top up payments to those lump sums.

Top-up paid to member

Regulation 17

5.6.2. Regulation 17 covers the situation where a 'protected member' of a 'Chapter 1 scheme' makes a 'new scheme benefits election' under section 6 'PSPJOA' which increases the amount of benefits payable under the scheme. The regulation acts to authorise the payment of top-up lifetime allowance excess lump sum where at the time of the payment the member is aged 75 or older.

5.6.3. The BCE in respect of this lifetime allowance excess lump sum occurs when the member receives an actual right to receive the lump sum. Given the retrospective nature of a 'new scheme benefits election' under section 6 'PSPJOA' this will be before the lump sum is actually paid.

Treatment of lump sum where LTA no longer used up

Regulation 15

5.6.4. As a result of a 'Chapter 1' member's 'immediate choice' under section 6 'PSPJOA' or a judge's 'options exercise' the amount of LTA used up by the benefit crystallisation may reduce. This means that a payment that was a lifetime allowance excess lump sum is no longer, partly or wholly, a lifetime allowance excess lump sum.

5.6.5. Regulation 15 provides that the lump sum is, and is treated as always having been:

- an uncrystallised funds pension lump sum to the extent that it does not exceed the individual's available LTA, and
- a lifetime allowance excess lump sum to the extent that it exceeds the individual's available LTA.

5.6.6. Regulation 15 also modifies the amount of LTA charge the scheme administrator can reclaim in these circumstances. The amount in which the scheme administrator can reclaim is the overpaid LTA charge, less the amount of tax the individual is liable to as a result of the operation of this regulation.

Repayment of overpaid lifetime allowance excess lump sum

Regulation 16

5.6.7. Regulation 16 covers the situation where due to the 'immediate choice' made by a 'Chapter 1 scheme' member under section 6 'PSPJOA the amount of benefit payable by the scheme is less than the amount paid. Schemes can choose if they want to pursue repayment of an overpaid lifetime allowance excess lump sum and how they will be repaid but they cannot undo the tax treatment of those payments simply by having members repay the amounts to the scheme.

5.6.8. Regulation 16 provides that where the overpaid lifetime allowance excess lump sum is repaid in full, it is treated as never having been crystallised. In effect, part of the BCE is undone by the repayment. This prevents the overpaid lifetime allowance excess lump sum, which was repaid to the scheme from being a BCE and using up part of the member's LTA.

5.7. Overpaid defined benefits lump sum death benefit lump

Regulation 14

5.7.1. A beneficiary may have been paid a defined benefits lump sum death benefit (DBLSDB). As a result of the 'immediate choice' made in respect of a deceased member under section 6 'PSPJOA', the amount of the DBLSDB payable under the scheme rules is less than the amount of DBLSDB paid. The overpaid DBLSDB will still be an authorised payment as it continues to meet the payment conditions for a DBLSDB and there is no change in the amount crystallised by any BCE that occurred in respect of the DBLSDB payment.

5.7.2. Schemes can choose if they want to pursue repayment of the overpaid lump sum and how they will be repaid. However, the tax treatment of those payments cannot be undone simply by the overpaid amount repaid embers repay the amounts to the scheme.

5.7.3. Regulation 14 provides that where the overpaid DBLSDB is repaid in full, it is treated as never having been crystallised. In effect, part of the BCE is undone by the repayment. This prevents the overpaid DBLSDB, which was repaid to the scheme from being a BCE and using up part of the member's LTA.

6. Unauthorised payments and the scheme sanction charge

6.1. Lump sum unauthorised payments: already paid

Regulation 18

6.1.1. Certain 'Chapter 1 schemes' may have made unauthorised payment. Examples of where an unauthorised payment may have arisen are:

- due to the scheme commutation factors, the maximum lump sum payable under the scheme rules is more than the maximum permitted pension commencement lump sum.
- a member with enhanced protection who has used up their LTA is paid a lump sum.

6.1.2. Due to the 'immediate choice' made by a 'Chapter 1 scheme member under section 6 'PSPJOA' the amount of benefit payable by the scheme is less than the amount paid. Schemes can choose if they want to pursue repayment of the overpaid lump sum and how they will be repaid. However, repaying the lump sum that was an unauthorised payment will not undo the tax treatment as an unauthorised payment.

6.1.3. Regulation 18 provides that where an overpaid unauthorised payment is repaid in full, it is treated as never having been an unauthorised payment. In effect, the unauthorised payments charge and, where applicable, unauthorised payments surcharge will no longer apply, and the member will be able to claim a refund for the overpaid tax charges.

6.1.4. The scheme administrator will be able to apply for a refund of any scheme sanction charge that has been paid in respect of that repaid unauthorised payment. Regulation 19 provides for how scheme administrator can reclaim the overpaid scheme sanction charge.

6.2. Repayment of scheme sanction charge

Regulation 19

6.2.1. An unauthorised payment made by a 'Chapter 1 scheme' may no longer be an unauthorised payment either due to the action of regulation 18 or due to the 'immediate choice' made under section 6 'PSPJOA'. Regulation 19 provides for the process of reclaiming overpaid scheme sanction charge in these circumstances.

6.2.2. Regulation 19(3) provides that any scheme sanction charge paid by the 'Chapter 1 new scheme' administrator in respect of that payment that is no longer an unauthorised payment is treated as paid by the 'Chapter 1 legacy scheme' administrator. This allows the 'Chapter 1 legacy scheme' administrator to reclaim the scheme sanction charge if it was paid by the 'Chapter 1 new scheme' administrator.

6.2.3. Scheme administrators should not amend the event report on which the unauthorised payment was originally reported to HMRC.

6.2.4. Scheme administrators will be able to reclaim the overpaid scheme sanction charge back from HMRC by making a claim on a form that HMRC will provide.

6.2.5. Scheme administrators will need to provide details of the member, the charge, when it was reported, the revised scheme sanction charge together with bank details. Full details will be provided on the data required and how to return this to HMRC in due course.

7. Consequential amendments

7.1.1. Regulations 21 to 25 make minor amendments to S.I. 2023/113 to provide further clarity and remove any uncertainty that may arise.

7.1.2. Regulation 21 amends regulation 7 of S.I. 2023/113 so that it covers all of the modifications to regulation 14B of the Registered Pension Schemes (Provision of Information) Regulations 2006 that are needed.

7.1.3. Regulations 22 and 23 amends regulations 8 and 9 of S.I. 2023/113 so that it is clear that in order for a scheme pays election to be made, the member has to be alive.

7.1.4. Changes to regulation 13 of S.I. 2023/113 made by regulation 24 are explained in the part of this guidance on MVC rights.

8. Administration

8.1. Introduction

8.1.1. This section of the guidance applies to individuals who:

- are or were members of ‘Chapter 1’ (public service schemes that are not judicial or local government schemes), ‘Chapter 2’ (judicial schemes) or ‘Chapter 3 schemes’ (local government schemes), the public service schemes impacted by the remedy, and
- in the tax years 2019-20 to 2022-23:
  - paid or should have paid any of annual allowance (AA), lifetime allowance (LTA) and unauthorised payments charges or unauthorised payments surcharge, or
  - as a result of the remedy, are now required to pay any of those charges.

8.1.2. If all of these points apply, then this section of the guidance sets out changes to the time limits for correcting the tax treatment of those tax charges.

Pension tax charges that apply

8.1.3. These regulations make specific provision where a member of a ‘Chapter 1’, ‘Chapter 2’ or ‘Chapter 3 scheme’ was subject during the ‘remedy period’ to, or as a result of the remedy becomes subject to:

- annual allowance (AA) charge
- lifetime allowance (LTA) charge
- unauthorised payments charge
- unauthorised payments surcharge

which are collectively called ‘relevant pension tax charges’. Part 6 of these regulations applies to members who, or as a result of the remedy, have changes to liability to at least one of the ‘relevant pension tax charges’ only.

Existing system

8.1.4. These pensions-related tax charges are not subject to the PAYE regime which means that members have to calculate and pay the tax charges separately, usually under the self assessment (SA) regime.

8.1.5. Under existing legislation members who are subject to these charges will need to submit an SA return and either pay the charge or, where the scheme has paid the charge or agreed to pay it, indicate that the scheme will pay. Members have to report and pay these charges within statutory time limits and the same time limits apply to members claiming an overpayment of these tax charges.

8.1.6. If these tax charges are not reported or paid by the time limit then interest will apply and penalties may be due depending on how long after the due date the charge is reported or paid. The time limits HMRC has to collect tax can be extended if a member's carelessness means that the information they provided is inaccurate.

Tax years that apply

8.1.7. The remedy makes retrospective changes to a member's tax position which could change the amount of these charges. Part 6 of these regulations ensures that, where the remedy makes changes to a member's 'relevant pension tax charges' those members will have to correct the same tax years, regardless of when their remedy is implemented – they are:

- 6 April 2019 to 5 April 2020 (2019-20)
- 6 April 2020 to 5 April 2021 (2020-21)
- 6 April 2021 to 5 April 2022 (2021-22)
- 6 April 2022 to 5 April 2023 (2022-23)

8.1.8. This makes sure that members who have their position corrected soon after the remedy is implemented on do not have to pay tax in circumstances that would not apply to those who have their position remedied later.

8.1.9. Where, as a result of the remedy, there are changes to a member's 'relevant pension tax charge' for the tax years 2019-20 to 2022-23, members will not be required to report or amend these changes under the existing framework through SA. Instead, they will be required to provide information to HMRC in a separate format. What is required and the process for how this will be done is set out in Part 6 of these regulations. This allows for the SA system to operate as normal for affected members for all other tax purposes. They should continue reporting through SA except where they have changes to their 'relevant pension tax charge' as a result of the remedy for the tax years 2019-20 to 2022-23.

SA return for 2022-23

8.1.10. When the remedy is implemented (by 1 October 2023), members may not have submitted their 2022-23 SA return, given the 31 January 2024 deadline for submitting the return online. When those members submit their returns, they may still not know whether the remedy will change their 'relevant pension tax charge' for that year.

8.1.11. Members who are unsure of what impact the remedy will have on these charges should complete their SA return to the best of their knowledge and belief. If they then later find out that they have a decreased, increased or new ‘relevant pension tax charge’, they will be required to make corrections using the separate format set out in the regulations.

New separate format

8.1.12. The regulations set out how the separate format will differ from the existing SA system in relation to changes arising as a result of the remedy:

- information members will need to provide (regulations 27 to 29)
- how and when assessments will be raised for ‘relevant pension tax charges’ (regulations 30 to 32)
- process for repayments of ‘relevant pension tax charges’ (regulations 33 and 34)
- process for HMRC to assess overpayments of ‘relevant pension tax charges’ when members have received too much in repayment (regulation 35)
- penalties regime that applies (regulation 36)
- changes to the existing tax legislation (regulations 37 and 38)

8.2. Provision of specified Information

Regulations 27-29

8.2.1. Members of ‘Chapter 1 schemes’ and ‘Chapter 2 schemes’ affected by the remedy will be sent a remediable service statement by their pension scheme. Some schemes may choose to send information on pension input amounts in that remediable service statement. Scheme administrators may also be required to give members a pension savings statement. Section 4.9 of the guidance for SI 2023/113 [https://www.gov.uk/government/publications/the-public-services-pension-schemes-rectification-of-unlawful-discrimination-tax-regulations-2023/guidance-on-the-public-services-pension-schemes-rectification-of-unlawful-discrimination-tax-regulations-2023#annual-allowance-aa] tells you when a scheme administrator must provide a pension savings statement.

8.2.2. Once the member makes a choice then their scheme will be able to work out their benefits. From this the scheme will be able to work out whether, as a result of the remedy, the member has changes to, or a new, LTA charge. This charge is usually paid by the scheme administrator.

8.2.3. The scheme will tell the member about any new or changes to any LTA charges and unauthorised payments charges.

Regulation 27

8.2.4. Regulation 27 provides that if a member (or if the member has died, their representative who can be assessed for tax):

- was liable to a 'relevant pension tax charge' in any of the tax years 2019-20 to 2022-23, and as a result of the remedy the amount of that liability has changed, or,
- has become liable to a 'relevant pension tax charge' in any of the tax years 2019-20 to 2022-23 as a result of the remedy

they will use the information given by their scheme administrator to send to HMRC using the new separate format.

8.2.5. Schedule 1 of the regulations sets out the information that must be given to HMRC. The type of information that a member has to send to HMRC depends on which 'relevant pension tax charge' applies to them This information either relates to when the charge was originally paid or is information that is normally required in relation to 'relevant pension tax charges'

8.2.6. Whichever relevant pension tax charge applies HMRC needs details of the member (and if applicable details of the representative who is providing the information) and relevant declarations. Where a repayment of overpaid tax is being claimed, bank details are also needed to enable HMRC to make any payment.

8.2.7. Information in relation to a new or changed AA charge:

- The name and tax reference number (PSTR) of the public service pension scheme, in which the member's pension input amount has changed as a result of the remedy.
- Where the member was previously subject to an AA charge:
  - the amount of the original charge
  - details of amounts paid by the individual, or by the scheme administrator including details of any relevant scheme pays notice.
- The amount of the member's liability to the AA charge, arising as a result of the operation of the remedy.
- Details of any new scheme pays notice which the member has provided to the scheme administrator in respect of an increased liability to the AA charge.

8.2.8. Information in relation to a new or changed LTA charge:

- The name and PSTR of the public service pension scheme, under which the amount of the BCE has changed as a result of the remedy.
- Where the member was previously subject to an LTA charge:
    - the amount of the charge
    - details of amounts paid by the individual, or the scheme administrator
- The amount of the member’s liability to the LTA charge arising as a result of the operation of the remedy
- Details of whether the scheme administrator has, or will pay any further liability to the LTA charge which arises
- Details of all BCE’s which occurred during the ‘remedy period’, where the amount crystallised has changed as a result of the remedy provision.
- Where applicable, details of any LTA protection or enhancements held and the relevant reference numbers

8.2.9. Information in relation to a new or changed unauthorised payments charge, and where applicable the unauthorised payments surcharge:

- The name and PSTR of the public service pension scheme which made the unauthorised payment
- Where the member was previously subject to an unauthorised payments charge, and where applicable the unauthorised payments surcharge:
    - the amount of the original charge(s)
    - details of amounts paid by the individual, or the scheme administrator
    - details of the unauthorised payment which gave rise to liability to the unauthorised payments charge, and where applicable surcharge,
- the amount of the member’s liability to the unauthorised payments charge, and where applicable the unauthorised payments surcharge, as a result of the remedy
- Amount of the unauthorised payment in relation to which the charges arose
- Details of the repayment of any overpaid lump sums in excess of the permitted maximum to the scheme administrator, including:
    - amount of lump sum repaid, and
    - the date it was repaid.

Deadlines for providing information

Regulation 28

8.2.10. Regulation 28 sets the deadlines for members (or their representative) to send this information to HMRC. There are different deadlines depending on the member’s position when the remedy was implemented for their scheme.

8.2.11. Members of:

- 'Chapter 1 schemes' who, as at the date of implementation of the remedy, were alive but had not started to take a pension,
- 'Chapter 2 schemes' and
- 'Chapter 3 schemes'

will have up until 31st January 2025 in which to provide the specified information to HMRC.

8.2.12. Remaining members of 'Chapter 1 schemes' who had started to take a pension or who had died before the implementation of the remedy for their scheme, generally will have up until 31 January 2027 to provide the information to HMRC.

8.2.13. The regulations set out specific limited circumstances when, if it is later than the general 31 January 2025 or 31 January 2027 dates, the due date can be extended by:

- 3 months from when the member dies, where the member dies in the 4 months before the general due date
- 3 months from the date the scheme provides the member with their pension savings statement
- 3 months from the date the overpaid unauthorised payment is repaid back to the pension scheme
- 3 months from the due date in which a member has to make an 'immediate choice' (the end of the section 6 'PSPJOA' election period).

8.2.14. Where an individual is more than one type of member, they have until the later of the dates in which to provide the specified information to HMRC. For example, where an individual is a Chapter 1 pensioner member and a Chapter 3 pensioner member, the individual has up until 31 January 2027 (although this can be extended as set out in paragraph 9.2.13.

Regulation 29

8.2.15. Regulation 29 provides that where a member is required to provide HMRC with specified information, they must preserve the relevant information and documents. The information must be retained for a period of 4 years from the due date for the information set out within regulation 28.

8.3. Assessments

Regulations 30 to 32

8.3.1. If changes as a result of the remedy mean that a member has to pay more 'relevant pension tax charges', regulation 30 provides that

HMRC can assess the member (or their personal representative) to collect the further tax which arises in any of the tax years 2019-20 to 2022-23.

8.3.2. Even though the tax is due in relation to past tax years, members have 30 days from the date of the assessment to pay the tax. Where payment is outstanding after that date, interest will apply from that due date, that is 30 days after the date of the assessment. Penalties as set out at section 9.9 may also apply.

8.4. Assessment time limits

Regulations 30 to 31

8.4.1. Regulation 31 brings the normal statutory time limits that apply to income tax into this new format.

8.4.2. Under regulation 31 HMRC cannot assess more than 6 years after information is provided under regulation 27 where a member's carelessness means the information provided was inaccurate (please see [https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch53400]) or more than 20 years after the information was provided where the member has deliberately caused that information to be inaccurate (please see [https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch53700]) In all other cases, HMRC has 4 years from the date the information within regulation 27 is provided to assess the member under regulation 30.

8.4.3. If the information under regulation 27 has not been provided HMRC has until:

- 31st January 2045 (if the member (or former member) had not started to take their pension benefits on the date that they were required to provide the information under regulation 27) or
- 31st January 2047 (if the member had started to take their pension benefits on the date that they were required to provide the information)

to assess the member under regulation 30.

8.4.4. However, if the member has died by the date the information under regulation 27 is due, then HMRC has:

- 6 years from the date the information was provided where the member carelessly or deliberately caused the information to be inaccurate, or
- in other cases, 4 years from the end of the tax year in which the member died

to issue an assessment under regulation 30.

8.5. Power to Withdraw Assessment

Regulation 32

8.5.1. Under regulation 32 HMRC is able to withdraw an assessment made under regulation 30 or regulation 35 by notice to the member (or their representative where they have died). Once HMRC withdraws an assessment it no longer has effect and is taken to have never had any effect.

8.6. How to reclaim overpaid tax

Regulations 33 to 35

8.6.1. If changes as a result of the remedy mean that a member's 'relevant pension tax charges' decrease in any of the tax years 2019-20 to 2022-23, regulation 33 provides that members can make a claim to HMRC for the overpaid tax.

8.6.2. The procedure for making this claim is set out in regulation 34. Instead of amending previous self-assessment returns members will use the new separate format to provide the necessary information.

8.6.3. As part of the claim, individuals will need to provide the following information:

- The name and tax refence number (PSTR) of the public service pension scheme, in which the member's relevant pensions tax charge has been overpaid as a result of the remedy
- the amount of the overpayment along with the amount of the original and revised charge
- when the original charge was paid, and who it was paid by
- tax year the charge relates to
- specific details in relation to the LTA charges where applicable.

8.6.4. Where an individual submits a relevant repayment request, they will be required to make the following declarations:

- that the application is in respect of a specified individual
- that the application and information provided is accurate
- that the applicant understands the consequences of providing false information.

8.6.5. HMRC will notify the member making a claim whether their application for repayment of overpaid tax is successful or unsuccessful.

8.6.6. HMRC will provide further details to pension scheme administrators on the process for reclaiming overpaid tax, including specific data items in due course.

8.7. Repayment time limits

8.7.1. Members of:

- ‘Chapter 1 schemes’ who, as at the date of implementation of the remedy, were alive but had not started to take a pension,
- ‘Chapter 2 schemes’ and
- ‘Chapter 3 schemes’

will have up until 31st January 2029 to make an application to HMRC to have ‘relevant pension tax charge’ repaid to them.

8.7.2. Remaining members of ‘Chapter 1 schemes’ who had started to take a pension or who had died before the implementation of the remedy for their scheme, will have up until 31 January 2031 to make an application to HMRC to have ‘relevant pension tax charge’ repaid to them.

8.8. Recovery of overpayments

Regulation 35

8.8.1. If a member claims a larger repayment than they should have received under regulation 34, then under regulation 35 HMRC can assess the member for any amount that should not have been repaid.

8.8.2. HMRC has 4 years from the end of the tax year in which the overpayment happened to assess the amount that should not have been repaid to the member.

8.9. Interest and penalties

Regulations 29, 36 and 38

8.9.1. Penalties and interest may apply in relation to reporting and payment of ‘relevant pension tax charges’:

- Where a member or their assessable representative fails to preserve documents, they will be liable to a penalty up to £3,000. For further details please see: [https://www.gov.uk/hmrc-internal-manuals/enquiry-manual/em4650]
- Where a member or their assessable representative provides inaccurate information, they will be liable to inaccuracy penalties. For further details please see: [https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch80000]
- Where a member or their assessable representative has outstanding tax as at the due date, they will be liable to late payment interest. For further details please see:

[https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch141000]

- Where a member or their assessable representative has overpaid tax, they will be entitled to repayment interest. For further detail please see: [https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch146000]
- Where a member or their assessable representative has not provided the relevant information by the due date, they will be liable to late filing penalties. For further detail please see: [https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch60000]

8.10. Self assessment

8.10.1. Where an individual is liable to a 'relevant pension tax charge' they are still required to submit self-assessment returns. Regulation 37 prevents individuals submitting new or amended self-assessment returns where the only change is as a result of the remedy.

9. Glossary of terms

2015 scheme — judicial scheme created by the public service pension reforms 2015

Chapter 1 scheme — public service scheme (either legacy or new scheme) that is not a judicial or local government scheme

Chapter 1 legacy scheme — public service scheme in existence before the public service pension reforms of 2015, that was not a judicial or local government scheme

Chapter 1 new scheme — public service scheme created by the public service pension reforms of 2015, and is not a judicial or local government scheme

Chapter 2 scheme — judicial scheme, either legacy or 'new' (2015) scheme

Chapter 2 legacy scheme — judicial scheme in existence before the public service pension reforms of 2015

Chapter 3 scheme — local government scheme

Final salary underpin — under 'Chapter 3 schemes' 'protected' members were given an underpin, so that the benefits they received would be based on the higher of career average (CARE) accrual or final salary accrual during the 'remedy period'

Immediate choice — a choice in relation to the 'remedy period' of benefits available to members of 'Chapter 1 schemes' who are pensioners or the representatives of those who have died when the remedy is implemented

Legacy scheme election — election made by 'taper-protected' and 'unprotected members' of the judicial pension schemes to treat any 'remediable service' as pensionable service under their 'Chapter 2 legacy scheme'

New scheme benefits — benefits for the period of 'remediable service' paid by the 'Chapter 1 legacy scheme' based on the rules of the 'Chapter 1 new scheme'

New scheme benefits election — election made by members of the 'Chapter 1 scheme' to receive 'new scheme benefits' in relation to their 'remediable service'

Options exercise — a choice in relation to the 'remedy period' for scheme membership available to 'taper-protected' and 'unprotected members' of judicial pension schemes

Protected member — members who were within 10 years of their normal pension age as at the 1 April 2012, and as a result remained within their 'legacy scheme' during the 'remedy period'

PSPJOA —– Public Service Pensions and Judicial Offices Act 2022 which sets out the remedy

Remediable service — pensionable service being fixed by the remedy as a result of discrimination found by the court

Remedy period — period covered by the discrimination, starting on 1 April 2015 in most cases (2014 for LGPS in England and Wales) and ending on 31 March 2022

Relevant pension tax charges — the annual allowance charge, the lifetime allowance charge, the unauthorised payments charge and the unauthorised payments surcharge

Rollback — changing of benefits period covered by the discrimination, starting on 1 April 2015, and ending on 31 March 2022

Section 2 — Section 2 of 'PSPJOA' which enables 'remediable service' to be retrospectively treated as pensionable service under the relevant 'Chapter 1 legacy scheme', providing separate treatment for voluntary contributions and transfers into new schemes

Taper-protected member — members who were within 10 years and 13 ½ years of their normal pension age as at the 1 April 2012, and as a result remained within their legacy scheme for part of the 'remedy period' but moved to a 'new scheme' before 1 April 2022

Unprotected member — a member who, from the 1 April 2015,

- for 'Chapter 1 schemes' — started to build up pension rights under a new scheme, or
- for 'Chapter 2 schemes' — started to build up pension rights under a '2015 scheme', or

- for ‘Chapter 3 schemes’ — (from 1 April 2014 for schemes in England and Wales) were not entitled to the ‘final salary underpin’ on starting to take their benefits